

REMARKS

This application has been amended so as to place it in condition for allowance.

The Official Action rejects claim 15 under 35 U.S.C. 101, asserting that the claimed invention is directed to non-statutory subject matter. This rejection is based on the recitation of certain elements of the claimed immobilization device that are recited in terms of the body parts upon which they act.

Applicant has amended claim 15 and other claims of the application to clarify the fact that the ribs to which the claims refer are not elements of the invention. Rather, the ribs and any other body parts recited merely provide context for the definition of the inventive device. If the Office suggests other wording to achieve the desired recitation of the device in terms of the body parts on which it acts, Applicant is open to considering such suggestions.

The Office Action rejects claim 15 under 35 U.S.C. 112, first paragraph as failing to meet the written description requirement. This is based on the assertion that the 'single piece' feature recited in such claim finds no support in the application as filed.

Applicant respectfully suggests that the unitary nature of the device is clear from the drawings, including at least Figures 1 and 5, which illustrate the device as consisting of a

unitary element. In any event, if the present rejection of claim 15 is maintained, Applicant suggests that the invention defined thereby is free of the known prior art even if the 'single piece' feature is not considered.

Reconsideration and withdrawal of this rejection are therefore respectfully requested.

The Official Action rejects claims 16 and 22 under 35 U.S.C. 112, second paragraph as being indefinite. Applicant has amended these claims as necessary to eliminate the bases for this rejection, the reconsideration and withdrawal of which are therefore respectfully requested.

The Official Action rejects claims 15-19, 21, 22, and 28 under 35 U.S.C. 103(a) as being unpatentable over Rolnick et al. Reconsideration and withdrawal of such rejection are respectfully requested for the following reasons.

Applicant and the undersigned discussed the present device as claimed and the disclosure of Rolnick et al. extensively during the personal interview of July 9, 2008. Applicant and the undersigned wish to thank Examiners Bianco and Jackson for facilitating a very productive interview, which served to advance prosecution. As discussed during such interview, and as noted in the Interview Summary it was agreed that the Rolnick et al. reference is silent as to the rigidity that is recited in each of the independent claims. As no other reference is offered against these claims, the present rejections

necessarily fails, and reconsideration and withdrawal of such are respectfully requested.

The Official Action rejects claims 20, 23, 29, and 30 under 35 U.S.C. 103(a) as unpatentable over Rolnick et al. in view of Bolla et al. The secondary Bolla et al. reference is offered for its asserted teaching or suggestion of a corrugated material. However, irrespective of the ability of such reference to teach or suggest that for which it is specifically offered, it nevertheless fails to overcome the shortcomings of the primary Rolnick et al. reference. Accordingly, the combination of reference necessarily fails to teach the full set of features recited, and reconsideration and withdrawal of this rejection are therefore respectfully requested.

The Official Action specifically states that claims 24-27 and 31 are allowable but for their dependence from a rejected base claim. Applicant suggests that these claims, as well as the remaining claims in the application, are all believed to be in condition for allowance.

In addition to the amendments specifically addressed above, Applicant has carefully reviewed the claims and made other amendment to improve the readability of the claims, as well as to conform to claim forms typically used in U.S. practice.

Applicant has also added new claims 32-40. Of these, claim 32 is an independent claim that recites, among other features, that when the device is adhered to the body to cover

the fracture and neighboring ribs, the device keeps the fractured rib in a fixed position relative to the neighboring ribs. This feature was discussed during the personal interview, and was suggested by Examiner Bianco as a feature of the disclosed device that may be absent from the known prior art, beyond the other features already considered.

Such feature is recited in claims 39 and 40 as well.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON



Eric Jensen, Reg. No. 37,855
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

EJ/ej